



# Salmon and Freshwater Fisheries Act 1975

## 1975 CHAPTER 51

### PART V

#### ADMINISTRATION AND ENFORCEMENT

##### *Offences*

#### **37 Prosecution etc. of offences.**

Parts I and II of Schedule 4 to this Act shall have effect with regard to the prosecution and punishment of offences against this Act and the procedure on such prosecutions.

#### **<sup>F1</sup>37A Fixed penalty notices for certain offences.**

- (1) Where on any occasion a water bailiff or other officer of the [<sup>F2</sup>appropriate agency] finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, he may give to that person a notice (in this section referred to as a “ fixed penalty notice ”) offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (2) Where a person is given a fixed penalty notice in respect of a fixed penalty offence—
  - (a) no proceedings shall be instituted for that offence before the expiration of the period for paying the fixed penalty; and
  - (b) he shall not be convicted of that offence if the fixed penalty is paid before the expiration of that period.
- (3) The [<sup>F2</sup>appropriate agency] may extend the period for paying the fixed penalty in any particular case if it considers it appropriate to do so in all the circumstances of the case.
- (4) If, in any particular case, the [<sup>F2</sup>appropriate agency] considers that a fixed penalty notice which has been given ought not to have been given, it may give to the person to whom the fixed penalty notice was given a notice withdrawing the fixed penalty notice; and where notice under this subsection is given—

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- (a) the [<sup>F2</sup>appropriate agency] shall repay any amount which has been paid by way of fixed penalty in pursuance of the fixed penalty notice; and
  - (b) no proceedings shall be instituted or continued against that person for the offence in question.
- (5) The amount by which the sums received by the Agency by way of fixed penalties exceed the sums repaid by it under subsection (4)(a) above shall be paid into the Consolidated Fund.
- [ The amount by which the sums received by the Natural Resources Body for Wales <sup>F3</sup>(5A) by way of fixed penalties exceed the sums repaid by it under subsection (4)(a) above shall be paid into the Welsh Consolidated Fund.]
- (6) In any proceedings, a certificate purporting to be signed by or on behalf of the Chief Executive of the [<sup>F2</sup>appropriate agency] and stating either—
- (a) that payment of a fixed penalty was, or (as the case may be) was not, received by the [<sup>F2</sup>appropriate agency] on or before a date specified in the certificate, or
  - (b) that an envelope containing an amount sent by post in payment of a fixed penalty was marked as posted on a date specified in the certificate,
- shall be received as evidence of the matters so stated and shall be treated, without further proof, as being so signed unless the contrary is shown.
- (7) A fixed penalty notice shall give such reasonable particulars of the circumstances alleged to constitute the fixed penalty offence to which the notice relates as are necessary for giving reasonable information of the offence and shall state—
- (a) the monetary amount of the fixed penalty which may be paid;
  - (b) the person to whom and the address at which—
    - (i) the fixed penalty may be paid, and
    - (ii) any correspondence relating to the fixed penalty notice may be sent;
  - (c) the method or methods by which payment of the fixed penalty may be made;
  - (d) the period for paying the fixed penalty;
  - (e) the consequences of the fixed penalty not being paid before the expiration of that period.
- (8) A fixed penalty notice may also contain such other information relating to, or for the purpose of facilitating, the administration of the fixed penalty system as the [<sup>F2</sup>appropriate agency] considers necessary or desirable.
- (9) Regulations may—
- (a) make provision with respect to the giving of fixed penalty notices, including, in particular, provision with respect to—
    - (i) the methods by which,
    - (ii) the officers, servants or agents by, to or on whom, and
    - (iii) the places at which,
 fixed penalty notices may be given by, or served on behalf of, a water bailiff or other officer of the [<sup>F2</sup>appropriate agency];
  - (b) prescribe the method or methods by which fixed penalties may be paid;
  - (c) make provision for or with respect to the issue of prescribed documents to persons to whom fixed penalty notices are or have been given.
- (10) In this section—

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“ fixed penalty ” means a penalty of such amount as may be prescribed (whether by being specified in, or made calculable under, regulations);

“ fixed penalty offence ” means, subject to subsection (11) below, any offence—

- (a) under this Act,
- (b) under the <sup>M1</sup>Salmon Act 1986,
- (c) under or by virtue of regulations or orders made under section 115, 116 or 142 of the <sup>M2</sup>Water Resources Act 1991, or
- (d) under section 211(3) of that Act, so far as relating to byelaws made by virtue of paragraph 6 of Schedule 25 to that Act,

which is for the time being prescribed for the purpose;

“ the fixed penalty system ” means the system implementing this section and regulations made under it;

“ the Ministers ” means the Secretary of State and the Minister;

“ notice ” means notice in writing;

“ the period for paying ”, in relation to any fixed penalty, means such period as may be prescribed for the purpose;

“ prescribed ” means prescribed by regulations;

“ regulations ” means regulations made under this section by the Ministers.

- (11) The provision that may be made by regulations prescribing fixed penalty offences includes provision for an offence to be a fixed penalty offence—
- (a) only if it is committed in such circumstances or manner as may be prescribed; or
  - (b) except if it is committed in such circumstances or manner as may be prescribed.
- (12) Regulations may provide for any offence which is a fixed penalty offence to cease to be such an offence.
- (13) An offence which, in consequence of regulations made by virtue of subsection (12) above, has ceased to be a fixed penalty offence shall be eligible to be prescribed as such an offence again.
- (14) Regulations may—
- (a) make different provision in relation to different cases or classes of case; or
  - (b) provide for such exceptions, limitations and conditions, or make such incidental, supplemental, consequential or transitional provision, as the Ministers consider necessary or expedient.
- (15) Any power to make regulations under this section shall be exercisable by statutory instrument made by the Ministers; and a statutory instrument containing any such regulations shall be subject to annulment pursuant to a resolution of either House of Parliament.]

#### Textual Amendments

- F1** S. 37A inserted (1.4.1996) by 1995 c. 25, s. 104(1) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F2** Words in s. 37A substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), Sch. 2 para. 147(2) (with Sch. 7)

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**F3** S. 37A(5A) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (No. 755), art. 1(2), **Sch. 2 para. 147(3)** (with Sch. 7)

**Modifications etc. (not altering text)**

**C1** S. 37A functions transferred (W.) (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018](#) (S.I. 2018/644), arts. 1(1), **15(1)**

**Marginal Citations**

**M1** 1986 c. 62.

**M2** 1991 c. 57.

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